

State of California
California Occupational Safety and Health Appeals Board
Closed Session Agenda

Government Code § 11126 (a), (c)(3), (e) and (f)

for

Thursday, March 2, 2023

9:30 a.m.

Held on Zoom

To: Members of the California Occupational Safety & Health Appeal Board

From: J. Jeffrey Mojcher, Chief Counsel

Date: February 16, 2023

RE: Closed Session of the Board to be held on March 2, 2023

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

Decisions Of Administrative Law Judges:

(Written decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The Board Members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

1451264 Trademark Construction Company, Inc.

Petitions For Reconsideration:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1570353 Adept Process Services, Inc.

1473644 Amazon.com Services, LLC

1604280 Edventure More

1604670 El Toro Export, LLC

1562245 Fabretti & Dedini, A Partnership

Orders Dismissing Appeal:

- 1237935 D'ybanag Construction Company
- 1491642 Madrigal Farm Labor, LLC (Failure to Appear)
- 1491642 Madrigal Farm Labor, LLC (After Employer's objection filed, No Good Cause to Reinstate).
- 1575113 Sun America Fruit & Vegetable Corporation

Orders Denying Leave to File Late Appeal:

- 1570557 Ly Brothers Corporation

Matters Pending Reconsideration:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters, or amends the Order or Decision being reconsidered.)

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

- 1314092 99 Cents Only Store, LLC
Whether the employer committed a foot protection violation as alleged.
- 1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.
- 1380273 Bigge Crane & Rigging, Co.
Whether the employer committed the alleged violation.
- 1360156 CA Forestry and Fire Protection
Whether it was an error to assign a particular ALJ to the matter.
- 1564732 Calvary Chapel of San Jose dba Calvary Chapel Academy
Whether the ALJ correctly excluded evidence from the inspection.

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- 1490008 Elite MD, Inc.
Whether the ALJ's denial of leave to file a late appeal was correct.
- 1262720 General Dynamics NASSCO
Whether the employer followed proper procedures in rigging a load.
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 1004280 Key Energy Services, LLC
Matter remanded to the Board from the Court.
- 1340591 Lennar Corporation
Whether Employer committed the violations alleged.
- 1465354 Natural Alternatives International, Inc.
Whether the ALJ erred in dismissing the matter.
- 1291481 Sierra Pacific Forest Products
Whether Employer was in compliance with the cited safety order.
- 1303461 SSA Terminals (Oakland), LLC dba SSA Marine Terminals
Whether Employer violated section 3212(a)(2)(A) as alleged.

Matters Pending Litigation:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

Superior Court:

1. Barnard Impregilo Healy, JV, CPF 17-515575 (317134021)
2. Ashley Furniture Industries, 34-2017-800002750 (1016514)
3. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
4. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
5. Davis Development Company, 34-2020-80003373 (1226084)
6. Southern California Edison, 34-2021-80003580 (1320327)

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7. Hill Crane Service Inc., 34-2021-80003744 (1135350)
8. USA Waste of California, Inc., 34-2022-80003841 (1384029)
9. Ranch of the Golden Hawk, 22STCP02302 (1224802)
10. Guy F. Atkinson Construction, LLC, 22STCP03019 (1332867)
11. American Fumigation Services, LLC, 22STCP04305 (1506586)

Appellate Court:

1. Interline Brands, Inc., CIVDS2021813 (1251604)
2. L & S Framing, Inc. S-CV-0046603 (1173183)
3. Granite Construction Company, 34-2021-80003634 (1235643)
4. MWL Solutions, C097353, 34-2020-80003549 (1436014)
5. BMC West LLC, 34-2020-80003459 (1399613)
6. Hampton Tedder Electric, 34-2020-80003549 (1233597)
7. Sierra Forest Products, VCU290996 (1291481)
8. RND Contractors, Inc., CIVSB2119442 (1436785)

Other Items:

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.
4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.

Orders Of Administrative Law Judges:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.

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| 1597307 | A.M.F. Supplies, Inc. |
| 1476835 | Aberle Concrete Excavating & Grading, Inc. |

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1514420	ABM Industries, Inc.
1588777	Accelerated Construction & Metal, LLC
1386405	Advanced Construction Southwest of California,
1554102	Alaskan Copper Companies, Inc.
1573277	Allied Propane Service, Inc.
1570570	Almanac Beer Company, LLC
1628897	Ameri-Kleen, Inc.
1520602	Americold Logistics, LLC
1628103	Anderson Brothers Corporation
1597585	Antelope Valley Recycling & Disposal Facility, Inc.
1574498	Barrier Specialty Roofing & Coatings, Inc.
1554016	Bay Cities Tin Shop, Inc.
1567654	Bay Cities Tin Shop, Inc.
1605807	Bill & Dave's Landscape Maintenance
1576435	Bill Hamilton Roofing, Inc.
1604975	Bon Appetit Danish, Inc.
1495504	BARCO Constructors Inc.
1619463	Bullert Industrial Electric, Inc.
1508321	CA Corrections and Rehabilitation, California
1571613	Church of The Open Door
1566637	Classical Progression
1531920	Coastal PVA Technology Inc
1549610	Contra Costa County's Sheriff's Office
1506773	Core Tree Care, Inc.
1556939	Cynet Health, Inc.
1602396	Donald Van Dam, Frances Van Dam, Glen Van Dam,
1594289	Employee Force Provider
1617086	Environmental Materials, LLC
1605602	Epsilon Plastics, Inc.
1375559	Essey Construction Company, Inc.
1527755	Evans Woodworking Incorporated

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1508306	Food 4 Less Holdings, Inc.
1511877	Foster Farms
1417334	Foster Poultry Farms
1475974	Gabilan Oaks, LLC
1504393	Gelson's Markets
1580030	General Restaurant Equipment Co.
1491632	Grimmway Enterprises, Inc.
1589437	Hansen Steel Services, LLC
1525769	Harbor Distributing, LLC
1614985	Hart Andrew Ronstadt
1585430	Heritage Construction, Concrete & Masonry, Inc.
1617888	Hilfiker Pipe Company
1555646	Hunter Landscape, Inc.
1577333	J. Harris Industrial Water Treatment, Inc.
1401311	Jackson Family Wines, Inc.
1617867	JC Ford Company
1544504	Jensen Landscape Services, LLC
1540055	Jim Carr General Contracting
1542296	JM Roofing Co. Inc.
1605157	Johns Manville
1540049	La Verne Nursery, Inc.
1504234	LAPD - Devonshire Division
1541865	LAUSD / Riverside Avenue Elementary School
1575359	Lightwave Construction, Inc.
1476218	Lincoln James Construction, Inc
1523246	LMC Construction, LLC
1559229	Lockheed Martin Aeronautics Company
1581044	M & T Fashion, LLC
1432024	Marques Pipeline, Inc.
1437448	Marques Pipeline, Inc.
1570982	Metropolitan Water District of Southern

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1498144	Morena Welding, Inc.
1563068	Nationwide Shotcrete, Inc.
1610185	Nongshim America, Inc.
1556360	Northcentral Pizza, LLC
1590394	Oakhurst Industries, Inc.
1429267	Oldcastle APG West, Inc.
1612453	One Contracting and Remodeling Limited
1536514	Pacific States Industries, Inc.
1527589	Peopleready, Inc.
1594306	Pinner Construction
1569373	R & R Demo and Grading Corp.
1588559	Rancho California Landscaping, Inc.
1521588	Ready Home Energy, Inc.
1601457	Repet, Inc.
1519226	Restoration Hardware, Inc.
1402746	Rick Miller
1465047	RJP Framing, Inc.
1499635	Rokstad Power Inc.
1580278	Rplanet Earth Los Angeles, LLC
1606578	Saga Kapital Group, Inc.
1524515	Seaside Waterproofing
1566999	Sid Ceballos Construction, Inc.
1320785	Stay Green Inc.
1539242	Steven T. Blaze, Individually
1523263	Sun Pacific Shippers, L.P.
1622166	Tabel, Inc.
1539014	Taylor Farms Retail, Inc.
1594303	TC Restaurant Group
1614981	Thatcher Company Of California, Inc.
1570703	Thomas Home Center, Inc.
1628415	Timberworks Construction, LLC

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1588990	Toste Construction, Inc.
1627329	Trophysmack, Inc.
1592346	UC Framing Corp.
1565727	Ultimate Internet Access, Inc.
1486978	Valley Produce Harvesting, Inc.
1558354	VCSD Inc.
1215216	VPET USA Inc
1550254	Willie Earl Page
1567213	Wright Equities, Inc.
1551401	Xus, Lp
1595410	Zuckerman Family Farms, Inc.

Personnel:

(Issues regarding staff.)

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